

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **August 10, 2004**

AGENDA ITEM NO.: 6

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Public Hearing Regarding Vacating a 50' Portion of Public Right-of-Way**

RECOMMENDATION:

Adopt an ordinance vacating a 50' portion of public right-of-way located between 138 and 140 Acres Court.

SUMMARY:

Theodore and Kimie Leadbetter and James and Virginia Ayers have requested that a 50' portion of public right-of-way located between 138 and 140 Acres Court be vacated. The Technical Review Committee comments have been incorporated into the proposed ordinance.

PRIOR ACTION(S):

March 2, 2004: Technical Review Committee Review

August 3, 2004: Physical Development Committee Review

BUDGET IMPACT:

None

CONTACT(S):

Pat Kost 455-3990

Theodore Leadbetter 237-3119

ATTACHMENT(S):

- Ordinance
- Map
- Technical Review Committee Report
- Application
- Agreement

REVIEWED BY: lkp

AN ORDINANCE VACATING A 50' PORTION OF PUBLIC RIGHT-OF-WAY

WHEREAS, Theodore and Kimie Leadbetter and James and Virginia Ayers have requested that the City of Lynchburg, on its own motion, vacate a 50' portion of public right-of-way located between 138 and 140 Acres Court; and

WHEREAS, the petitioners own all of the adjoining property; and

WHEREAS, City Council finds that no public inconvenience will result from vacating this portion of public right-of-way;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Lynchburg, on its own motion, and in accordance with the provisions of Section 15.2-2006 of the Code of Virginia, 1950, as amended, and Section 35-71 through Section 36-77 of the City Code, 1981, as amended, the following described portion of public right-of-way be, and the same hereby is, discontinued and vacated, namely:

A 50' portion of public right-of-way located between 138 and 140 Acres Court.

Said vacation is contingent upon the following conditions: (1) that an agreement is executed by the petitioners granting Centra Health an emergency access easement through the right-of-way to be vacated; and (2) that an easement to locate, relocate, repair, replace, maintain and perpetually operate all utilities currently located therein or needed by the City in the future is hereby reserved unto the City of Lynchburg, and the construction of any building or structure or the use of the vacated property in any manner that could interfere with the City's right to locate, relocate, repair, replace and maintain and perpetually operate utilities is prohibited without the prior written approval of the City Manager's Office, City Utilities Division and the City Engineering Division.

BE IT FURTHER ORDAINED That the Clerk of Council is hereby authorized and directed to deliver a duly-certified copy of this ordinance to the Clerk of the Circuit Court for the City of Lynchburg so that said certified copy of this ordinance may be recorded as deeds are recorded and indexed in the name of the City of Lynchburg.

Adopted:

Certified:

Clerk of Council

B-1
04-0
05-0

LAXTON ROAD

252-01

252-08

252-08

24
252-08

B-1
04-0
05-0

B-1

04-0

05-0



THE CITY OF LYNCHBURG, VIRGINIA

Planning Division

City Hall, 900 Church Street, P.O. Box 60
Lynchburg, Virginia 24505 • (434) 455-3900
FAX • (434) 845-7630

March 18, 2004

TO: Patricia W. Kost, Clerk of Council
FROM: Annette M. Chenault, Planner II *Annette M. Chenault*
RE: Street Vacation - Unnamed Street
Off Acres Court
Between 138 and 140 Acres Court

On March 2, 2004 the Technical Review Committee (TRC) reviewed the street vacation for the subject right-of-way. Following are the comments:

1. The subject project proposes the vacation of an unnamed street located between 138 and 140 Acres Court. An application for the vacation of the right-of-way has been submitted to the City Manager's Office. Contact Patricia Kost, Clerk of Council, at 455-3982 for further information and the public hearing date.
2. All lots fronting on the portion of the unnamed street to be vacated have right-of-way frontage on Acres Court and Enterprise Drive; therefore, the vacation would not cause any lot to be landlocked.
3. Centra Health, who owns property abutting the right-of-way, has expressed its concern about vacating this right-of-way. The owners of 138 and 140 Acres Court informally agreed at the TRC meeting to grant Centra Health an easement through the right-of-way to be vacated for emergency access.
4. The adjoining property to the north, including the Centra Health property, was rezoned to R-4 "Conditional" on April 8, 1997. One of the rezoning proffers was "...the two existing 'stub' streets that now exist in this subdivision shall not be connected to this development." Therefore, the Planning Division supports the proposed right-of-way vacation of the subject unnamed street.
5. The access should be gated and for fire emergency only.

Attachment

pc: Technical Review Committee

RECEIVED
MAR 19 2004
CITY OF LYNCHBURG
CLERK OF COUNCIL

APPLICATION FOR THE VACATION OF
A PORTION OF PUBLIC RIGHT-OF-WAY
(Street/Alley)

LOCATED

138 Acres Ct.

The undersigned applicant, Theodore Percy Leadbetter, pursuant to the provisions of Section 15.2-2006 of the Code of Virginia, 1950, as amended, and Section 35-71 through Section 36-77 of the City Code, 1981, as amended, respectfully makes application to the Lynchburg City Council for the vacation of a certain portion of public right-of-way described as follows:

50' Public Right-of-Way
Small lot between house # 138 Acres
and 140 Acres Ct

The applicant further request the Lynchburg City Council to hold a public hearing on this application at its meeting to be held in the Council Chambers, City Hall, 900 Church Street, Lynchburg, Virginia, on January, 2004, at 7:30 p.m., or as soon thereafter as the matter may be heard, and at the conclusion of which hearing to consider whether or not to vacate the above described public right-of-way.

Given under my hand this December day of 1, 2003.

Shedra Perry Leadbetter

Applicant

Kimie Leadbetter

135 Acres Ct, Lynchburg, Va. 24502

Address

434-237-3119

Telephone Number

WE, THE ADJOINING PROPERTY OWNER(S), ARE IN AGREEMENT TO THE
VACATION OF THE ABOVE DESCRIBED PROPERTY:

James T. Ayres

140 Acres Ct.

James T. Ayres

THIS AGREEMENT made this 23rd day of July, 2004, by and between Theodore P. Leadbetter and Kimie Leadbetter, husband and wife, and James T. Ayers and Virginia D. Ayers, husband and wife, Grantors, and Centra Health, of Lynchburg, Virginia, Grantee.

W I T N E S S E T H:

That for and in consideration of the sum of One Dollar (\$1.00), cash in hand paid, and other good and valuable consideration, paid by the said Grantee to the Grantors, the receipt of all of which is hereby acknowledged, the said Grantors do hereby grant and convey to the Grantee, their successors and assigns, a right of way and easement to a 50 foot right-of-way located between 138 Acres Court and 140 Acres Court. The purpose of this easement and right-of-way is for access to the adjoining property owned by the Grantee that will allow for unobstructed emergency vehicular traffic. It is understood that no driveways, pavement rock or gravel are to be added to these areas unless written permission is obtained from the Grantors. The surface of the terrain is not to be disturbed except for normal wear and tear involving access. The Grantee agrees to install a gated fence between the property owned by the Grantee and this portion of right-of-way at a time determined by the Grantee.

It is agreed that this easement is granted on the condition that the above mentioned 50 foot right-of-way located between 138 Acres Court and 140 Acres Court is vacated by the City of Lynchburg.

This easement shall run from the property owned by the Grantee, through the 50 foot right-of-way to Acres Court and is to be used for emergency only.

WITNESS the following signatures and seals:

Theodore P. Leadbetter (SEAL)
Theodore P. Leadbetter

Kimie Leadbetter (SEAL)
Kimie Leadbetter

James T. Ayers (SEAL)
James T. Ayers

Virginia D. Ayers (SEAL)
Virginia D. Ayers

COMMONWEALTH OF VIRGINIA

To-Wit:

CITY OF LYNCHBURG

The foregoing Agreement was acknowledged before me this 23rd day of July ~~April~~, 2004, by Theodore P. Leadbetter and Kimie Leadbetter, husband and wife.

My commission expires: 2/29/2008

Shirley J. Carter
Notary Public

COMMONWEALTH OF VIRGINIA

To-Wit:

CITY OF LYNCHBURG

The foregoing Agreement was acknowledged before me this 23rd day of July ~~April~~, 2004, by James T. Ayers and Virginia D. Ayers, husband and wife.

My commission expires: 2/29/2008

Lickie J. Carter
Notary Public